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**CITY OF NEWARK
DELAWARE**

PLANNING AND DEVELOPMENT DEPARTMENT

May 31, 2011

TO: Mayor and Council

VIA: Kyle R. Sonnenberg, City Manager *KS*

FROM: Roy H. Lopata, Planning & Development Dept. Director *Roy H. Lopata*

RE: Rezoning, Major Subdivision, Special Use Permit and Parking Waiver:
"Campus Edge" -- Development Summary [**Revised**]

I have attached the Planning Commission recommendation, the Planning and Development Department report, rezoning, major subdivision, special use permit and parking waiver plan and applicant's supporting materials for the redevelopment of the properties at 206-224 E. Delaware Avenue to be known as "Campus Edge."

The Planning and Development Department's summary of this redevelopment project follows:

Originally Proposed Development

The applicants original plan, reviewed and recommended for approval by the Planning Commission by a 4 -3 vote on March 1st, called for the rezoning of site from the existing BL (business limited) to BB (central business district) zoning and the construction of a five story mixed use building including 12,116 sq. ft. of first floor commercial space and 39 upper floor apartments. In addition, the applicants requested a BB zoning required special use permit for upper floor apartments and site plan approval to permit several variations in the normally applicable zoning area specifications. Although the project includes ground level and second level exterior and interior parking, the applicants also applied for a 42 space BB zoning required parking waiver.

Revised Proposed Development

Following the Planning Commission meeting and subsequent discussions with the Mayor and members of Council, and meetings with area residents, the applicants have submitted the attached revised Campus Edge development plan. The plan continues to call for a rezoning from BL to BB, but now shows two smaller three story adjacent mixed use buildings -- the first, on the east end of the site, includes 4,840 square feet of first floor commercial space and 14 apartments on the second and third floors; the second building calls for first floor parking and 10 second and third floor apartments (for a total of 24 apartments on the site). The BB zoning required special use permit for upper floor apartments continues to be necessary, along with a reduced BB zoning parking waiver for 6 spaces. Site plan approval is no longer being requested by the applicants.

The applicant's engineers have also revised the Campus Edge plans to reflect the SAC technical requirements. Some of the SAC items will be handled through the construction improvement plan and referenced in the subdivision agreement.

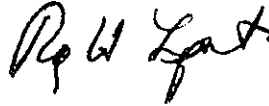
Upon your approval, the City Secretary's Office will prepare the required subdivision agreement, which will be reviewed by the City Solicitor, and will schedule the project's review for the next available Council meeting.

cc: Maureen Feeney Roser, Asst. Planning & Development Director
Pat Fogg, City Secretary
Bruce Herron, Interim Solicitor

**CITY OF NEWARK
DELAWARE
PLANNING AND DEVELOPMENT DEPARTMENT**

March 2, 2011

TO: Mayor and Members of Council

FROM: Roy H. Lopata, Planning and Development Director 

RE: REZONING, MAJOR SUBDIVISION, SITE PLAN APPROVAL,
SPECIAL USE PERMIT AND PARKING WAIVER: CAMPUS EDGE

At their regularly scheduled meeting on March 1, 2011, the Planning Commission took the following actions:

MOTION BY DRESSEL, SECONDED BY JOHNSON THAT THE PLANNING COMMISSION TAKES THE FOLLOWING ACTIONS:

- A. RECOMMENDS THAT CITY COUNCIL APPROVE THE CAMPUS EDGE REZONING FROM BL (BUSINESS LIMITED) TO BB (CENTRAL BUSINESS DISTRICT), AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED MARCH 1, 2011;
- B. RECOMMENDS THAT CITY COUNCIL APPROVE THE CAMPUS EDGE MAJOR SUBDIVISION PLAN AS SHOWN ON THE MCBRIDE & ZIEGLER, INC. PLAN, DATED DECEMBER 20, 2010, WITH SITE PLAN APPROVAL, AND WITH A SPECIAL USE PERMIT FOR UPPER FLOOR APARTMENTS, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, EXCEPT WITH THE CONDITION THAT CITY COUNCIL APPROVES THE APPLICANTS' ALTERNATIVE CONDITION TO LEASE, ON A LONG-TERM BASIS, THE FIRST FLOOR PARKING TO THE CITY AND THAT THE APPLICANTS BUILD THE UPPER FLOOR PARKING GARAGE AT THEIR EXPENSE;
- C. THE PLANNING COMMISSION APPROVES THE CAMPUS EDGE 42 SPACE PARKING WAIVER, WITH THE REQUIRED LAND-LEASE TO THE CITY NOTED AS A CONDITION OF THE MAJOR SUBDIVISION RECOMMENDATION TO CITY COUNCIL.

VOTE: 4-3

AYE: BOWMAN, DRESSEL, JOHNSON, SHEEDY
NAY: BEGLEITER, BRILL, BROWN

MOTION PASSED

RHL/ed

**CITY OF NEWARK
DELAWARE**

PLANNING AND DEVELOPMENT DEPARTMENT REPORT

February 18, 2011

**REZONING, MAJOR SUBDIVISION, SITE PLAN APPROVAL, SPECIAL USE
PERMIT AND PARKING WAIVER: "CAMPUS EDGE"**

On December 22, 2010, the Planning and Development Department received applications from Campus Edge LLC for the redevelopment of the properties at 206, 208, 220 and 224 E. Delaware Avenue. The applicants are requesting rezoning from the existing BL (business limited) to BB (central business district) zoning and major subdivision in order to demolish the existing buildings on these sites and replace them with a five story mixed use building with 12,116 sq. ft. of first floor commercial space and 39 upper floor apartments, to be known as "Campus Edge." Although the project will also include ground level and second deck exterior parking and second level interior parking, the applicants are applying for a 42 space BB zoning required parking waiver. In addition, the applicants are requesting a BB zoning required special use permit for upper floor apartments and site plan approval to permit several variations in the normally applicable zoning area specifications.

Please see the attached McBride & Ziegler, Inc. development plans, applicant's supporting materials and building elevation drawings.

The Planning and Development Department's report on the Campus Edge project follows:

Property Description and Related Data

1. Location:

206-224 E. Delaware Avenue; north side of E. Delaware Avenue.

2. Size:

.85 acres.

3. Existing Land Use:

The Campus Edge site is a developed property containing four small former residential structures that have been converted to office use with one apartment each in the buildings at 208 and 220 E. Delaware Avenue.

4. Physical Condition at the Site:

The Campus Edge properties are developed sites containing four small two-story buildings. Associated parking areas and driveways are also found on these properties, along with small lawn areas and some trees. Several large Sycamore trees line Delaware Avenue in front of these properties.

In terms of topography, this site is very level with a slight increase in elevation from south to north.

Regarding soils, according to the subdivision plan and the United States Department of Agriculture's Natural Resources Conservation Service, Campus Edge contains Matapeake-Sassafras Urban Land Complex soil. The Natural Resources Conservation Service indicates that this is a disturbed soil that has been used for development purposes. No development limitations for the proposed uses are indicated.

5. Planning and Zoning:

The Campus Edge site is zoned BL. BL is primarily an office zone that permits the following:

- A. Churches or places of worship
- B. Schools
- C. Parks and playgrounds
- D. Municipal utility uses
- E. Public transportation bus or transit stops
- F. Social club, fraternal, social service, union and civic organizations
- G. Accessory uses
- H. Hospitals
- I. Residences limited to one apartment unit provided in conjunction with any one non residential use
- J. Offices for professional services and administrative activities
- K. Finance institutions, banks, loans companies
- L. Undertakers
- M. Barber shops and beauty parlors
- N. Medical clinic
- O. Bed and breakfast, with special requirements

BL zoning also permits, with a Council granted Special Use Permit, the following:

- A. Police and fire station, library, museum and art gallery
- B. Golf courses and country clubs
- C. Electrical and gas substations
- D. Day Care Centers
- E. Drive-in and curb service for other than eating establishments

The requested BB zoning, our central business district zone, would permit the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

BB also permits, with a Council granted Special Use Permit, the following:

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb service for other than eating establishments.
- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

Regarding BB zoning area requirements, the applicants have applied for the required parking waiver for off-street parking and have requested site plan approval for conformity with the front building setback [20 feet; the plan calls for 10 feet; and side yard [8 feet; the plan calls for 3 feet] specifications for a building of the height proposed, and for the overall height of the structure [four stories, the plan calls for five].

Regarding adjacent and nearby properties, the TD Bank with drive-in facility occupies the BB zoned property immediately east of Campus Edge. The Trader's Alley and the Schlosser and Dennis properties, including the Iron Hill Brewery restaurant and other commercial facilities and a surface parking lot, are located immediately north of the site occupying lands zoned BB. An easement providing access to the Trader's Alley area from E. Delaware Avenue roughly bisects the Campus Edge site. The parking area for the Simon Eye Associates building lies west and northwest of the Campus Edge property on BL zoned lands. BL zoned parcels lie south of Campus Edge across E. Delaware Avenue and contain the Newark New Century Club, the Newark Masonic building, the Calvary Baptist Church and a small two and one-half story residential type building with an office and apartments.

Regarding comprehensive planning, Comprehensive Development Plan IV calls for "commercial (pedestrian oriented)" uses at this site. The Plan defines these uses as:

"Shopping and commercial uses of all types including retail facilities for buying and selling of goods and services as well as administrative and professional offices, personal service establishments, eating establishments, and shopping centers typically included in central business districts with customers, to a lesser extent, relying on the automobile to patronize these businesses. Residential uses, as noted in detail above and in Chapter II may be permitted under certain circumstances."

In addition, the Plan's Downtown Economic Enhancement Strategy shows the Campus Edge location which is just outside the "Downtown Core District," and within "District Two – University," described as:

"This area includes mostly University of Delaware lands with other properties that almost encircle the Downtown Core District. The area is intended for continued University related uses. The University should make the downtown business community aware of student, faculty and staff commercial needs and opportunities through the Downtown Newark Partnership."

Obviously, while the Campus Edge site is located in the area described above as "District Two – University," because the land is not owned by the University and has not been devoted to academic uses, it should be more appropriately considered within the "Downtown Core District."

More generally, concerning downtown residential uses, the Plan comments that:

"Regarding the City's review of downtown mixed use redevelopment projects with housing components, the intent is to make it abundantly clear that the City seeks positive impacts from such residential uses. One key positive impact for an individual project, for example, might include the potential at the site for affordable housing for owner occupants. In particular, and perhaps most importantly, to implement this Action Item,

Council may need to actively consider density reductions for projects of this type, on a case-by case basis depending on the location, other site conditions and the nature of the project. Through the City's multi-year effort to limit the proliferation of off-campus student housing in traditional neighborhoods, we have learned that one of the best zoning tools to promote affordable owner occupant housing is to significantly limit permitted density in approved residential projects to individual families or to no more than two unrelated tenants, or with similar specifications. For example, in the developments of Casho Mill Station, Abbotsford, Country Place and Williamsburg Village, the City has very successfully preserved these communities for primarily owner occupant relatively affordable housing. If this approach worked at these locations, it should also work downtown. This zoning and development approval tool can be packaged with other incentives to encourage owner occupancy. In sum, we want Newark, especially downtown, to become a "destination city" featuring affordable housing for owner occupants. with an emphasis on occupancy for young couples and families, singles, recent University graduates, retirees and other individuals desirous of making downtown Newark a permanent home rather than a transitory residence."

Regarding gross residential site density, please note that Campus Edge calls for 45.88 dwelling units per acre. By way of comparison, the density of the nearby Washington House mixed use project is 36.1 units per acre, and the densities of other downtown similar mixed use projects of 102, 108, and 129 E. Main Street are 20.83, 14.7 and 34.68 units per acre respectively.

As noted above, the applicants have also applied for site plan approval because Campus Edge does not conform to the front setback, side yard and building height requirements for a building for the size proposed. In this regard, the Zoning Code describes the purpose and intent of site plan approval,

" . . .to provide alternatives for new development and redevelopment proposals, to encourage variety and flexibility, for new development and redevelopment, and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations stated in this chapter."

The Code adds that site plan approval,

" . . . shall be based upon distinctiveness and excellence of site arrangement and design and including, but not limited to: (1) common open space; (2) unique treatment of parking facilities; (3) outstanding architectural design; (4) association with the natural environment including landscaping; (5) relationship to neighborhood and community and/or; (6) energy conservation defined as site and/or construction design that the Building Department has certified meets or exceeds the "certified" level as stipulated in the LEED

(Leadership and Energy in Environmental Design) United States Green Building Council Program or a comparable Building Department approved energy conservation program.”

Obviously, the Planning Commission will need to evaluate the Campus Edge proposal in light of the relevant aspects of the review criteria noted.

BB District Off-Street Option Procedure

The BB district off-street parking waiver program, adopted by the City to encourage quality pedestrian oriented development downtown stipulates that the Planning Commission can reduce or waive the off-street parking standards in Zoning Code Section 32-45(a) after considering the following:

- “A. Whether the applicant has demonstrated the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City;
- B. Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character of the development pattern of the central business district;
- C. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business;
- D. That the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property improvements in the vicinity;
- E. The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet) that may be shared by the applicant and an existing or proposed use. In considering this subsection the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the City, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve;
- F. The Planning Commission shall consider the advice and recommendation of the Planning Director.

Please note also that the BB zoning parking waiver procedure permits City Council to review, modify, or deny Planning Commission approval, disapproval, or approval with conditions upon the recommendation of a member of City Council, the Planning and Development Director and/or the City Manager.”

Regarding the requested 42-space parking waiver, our procedure specifies that applicants receiving such approvals must make an “in lieu of spaces” payment to the City to be used to improve parking downtown. The Zoning Code also indicates, however, that the Planning Commission may consider land donation in assessing these payments. In any case, the required payment for the requested waiver, based on a recently updated estimate of the cost of construction of surface level parking spaces provided by the Public Works Department (\$5,833) is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 1,458.25 (5% of cost)
Six to Twenty-five (20)	\$ 58,330.00 (50% of cost)
Each Space of Twenty-five (17)	<u>\$ 99,161.00 (100% of cost)</u>
Total:	\$158,949.25

Please also note, regarding the parking waiver and the site plan approval review criteria described above, the Planning and Development Department has had a series of meetings with the applicants and adjoining property owners (Trader’s Alley, LLC and Schlosser and Dennis, LLC) to propose to use the Campus Edge redevelopment plan as an opportunity to solve several ongoing parking difficulties at this location. As the property owners report and any customer of the businesses in Trader’s Alley has experienced (the Trader’s Alley subdivision encompasses the Trader’s Alley, LLC and the Schlosser and Dennis, LLC properties), parkers typically utilize this facility for “free parking” although they are not customers of the businesses at the site. As a result, it is very difficult at times to find available parking at this location. The Department, therefore, has in the past encouraged the property owners to consider making their parking area available to be operated as one of the City’s surface parking lots; thereby providing the onsite regulation necessary to limit the abuse of an existing parking facility.

In any case, the Department has proposed for the adjoining property owners’ future consideration the possibility of redevelopment of this “rear” parking facility for upper floor residential uses above a second floor parking deck that would be extended from the Campus Edge second level deck shown on the plan for that site. In other words, we have suggested, and the adjoining property owners are seriously considering, the possibility of redeveloping their parking area with a second level of parking, with apartments over the Trader’s Alley, LLC parking lot and new apartments above the “Cameras, Etc.” building portion of the Schlosser and Dennis, LLC site, with the existing surface level parking dedicated to the City. Of course, there are many logistical details that would need to be finalized as part of the future redevelopment plans for that area, but it is important to note that for planning and construction purposes, the coordination amongst these various projects is crucial to help solve ongoing parking problems at this location while minimizing the disruption to existing businesses. Additional comments concerning this matter appear below under Subdivision Advisory Committee.

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural features must be included in the construction improvement plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting, related exterior features, and existing utility lines. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, the Campus Edge development plan calls for a proposed new five story building in two sections fronting on E. Delaware Avenue replacing the four smaller residential style structures on the site. The sections are connected with a multi-story "bridge," that contains upper floor uses and is an integral part of the proposed structure. The gateway below the "bridge," provides access to Trader's Alley immediately to the north of the site. 12,116 sq. ft. of commercial space is proposed for the first floor of Campus Edge. The second floor contains a parking garage accessed from a ramp to the rear of the facility that also includes second floor parking extending beyond the main structure that fronts on E. Delaware Avenue, providing two levels of parking to the rear of the building. 39 apartments are proposed for the third, fourth and fifth floors within the main structure.

Please consult the applicant's submitted building elevation drawings and supporting letter for additional information concerning the proposed site design.

To evaluate the proposed architectural design, the Planning Commission should consult the design criteria in Municipal Code Chapter 27, Subdivision and Development Regulations, Appendix XIII(d).

Please note in this regard, that on a voluntary basis, the applicants reviewed the proposed building elevation drawings with the Downtown Newark Partnership's Design Review Committee. As a result, the Committee recommended in favor of the project and noted that Campus Edge is a, "... good example of the type of project we aim for with some added density in the central business district," while at the same time the Committee indicated that, "... this project is unique in that there are not really any adjacent buildings which is the basis for many of the Design Guidelines."

Fiscal Impact

The Planning and Development Department has evaluated the impact of Campus Edge on Newark's municipal finances. The estimates are based on the Department's Fiscal Impact Model. The Model projects the Campus Edge fiscal impact; that is, total annual municipal revenues less the cost of municipal services provided. The Planning and Development Department estimate of net revenues follow:

	<u>Net Revenue</u>
First Year	\$21,855
2 nd Year and Thereafter	\$11,709

The reduction in net revenue in the second year is a result of the one time impact of the real estate transfer tax.

Traffic and Transportation

In light of the size and scale of the Campus Edge project and the requirement for a State of Delaware Department of Transportation (DelDOT) entrance/exit permit, we have asked DelDOT to review the Campus Edge project.

In response, DelDOT indicated that because the Department will not require a traffic impact study a DelDOT so called "area wide study fee," will be required. In addition, regarding access to the site from E. Delaware Avenue, a "letter of no objection," will also be required through the construction improvement plan process.

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development plan and has the comments provided below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Planning and Development Department notes that the proposed mixed commercial and residential land use at the site corresponds to recently approved downtown development projects. On the other hand, the proposed density of almost 46 dwelling units per acre exceeds that of all recent downtown projects. It most closely corresponds to the owner occupant Washington House condominium project's density of 36.1 units per acre. In addition, of course, the applicants have also applied for a 42 space parking waiver which is directly related to the number of units proposed. We believe, therefore, that to correspond to the updated land use guidelines for downtown residential development as described in Comprehensive Development IV, either the number of units proposed should be reduced, or some form of rental tenancy restrictions similar to those utilized at Washington House

should be applied. Regarding the latter suggestion, for example, as a subdivision and special use permit condition, some portion of the units proposed could be limited to no more than two tenants per unit if they are leased or subleased. The intent here would be to encourage condominium ownership of the units.

2. Regarding the impact of Campus Edge on parking downtown, the Planning and Development Department notes, in addition to suggesting the land donation for the downtown parking system, and as explained above, we have encouraged the applicants and adjoining property owners to consider some form of shared parking arrangement – which might include the extension of the second deck, with additional upper floor residences, over the existing Trader’s Alley parking facility to alleviate parking difficulties at this location. Moreover, we have noted that the surface level parking of such a facility would be transferred to the City for operation and management as part of the Department’s downtown off-street parking operation.

Beyond that, and perhaps most importantly in terms of the density issue discussed above in item #1, we believe that, as part of its site plan approval and comprehensive plan conformity review of this project, the potential for responding to local parking needs inherent in this proposal should be considered. More specifically, in terms of comprehensive planning, we note as part of the City’s review of downtown mixed use redevelopment projects our Plan stipulates that, “. . . the intent is to make it abundantly clear that the City seeks positive impact from such residential uses.” As the Planning and Development Department has indicated in the past, land donations of the type described here are typically considered significant positive uses. In this regard, therefore, the Commission could conditionally approve a density proximate to that requested by the applicants, provided that such density would only be permitted if the parking and redevelopment arrangement for the Trader’s Alley lot described here is submitted for Planning Commission and Council review in the relatively near future.

3. The Planning and Development Department also suggests the following subdivision site design conditions:
 - The architectural design of the facades of the proposed Campus Edge building should be carried out on all building elevations visible from public ways.
 - Storage areas, mechanical and utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
 - Parking area lighting should be designed to limit impact on adjoining and nearby properties.
4. Regarding site plan approval and its relationship to the proposed building design, while the Planning and Development Department typically refrains from commenting on architectural appearance, we cannot help but note in this case our view that the Campus Edge building is a very attractive addition to the E. Delaware Avenue streetscape.
5. The Public Works Department indicates the following regarding stormwater management:

- Prior to the plan's review by City Council, the applicant will need to meet with the Department to discuss sediment control and stormwater management design; a copy of the soils infiltration test report should be provided to the Department.
 - The subdivision plan and agreement will need to specify that any underground stormwater facility installed at land eventually dedicated to the City will remain the responsibility of the applicant(s).
 - The Department has a series of stormwater management, drainage and related requirements that the applicant will need to review with the Department through the construction improvement plan process.
6. The Public Works Department also indicates that the plan should be revised to show required bike racks.
7. The Electric Department has the following comments:
- Electric service is available from Delaware Avenue.
 - No trees growing over 18 ft. at maturity will be permitted along E. Delaware Avenue and building clearance from the utility poles to the front of the building should be reviewed with the Department prior to the issuance of building permits for the site.
 - The applicant will be required to pay all costs for the relocation of a Verizon owned pole at E. Delaware Avenue.
 - The applicant will be required to pay \$12,000 toward the cost of a padmounted transformer, as well as \$350 per commercial and \$110 per apartment meter.
8. The Code Enforcement Division indicates that the proposed new structure must meet all applicable City Building and Fire Code requirements. The new building will be required to be sprinklered.
9. The Code Enforcement Division also indicates that for site plan approval compliance LEED or similar certification approved by the Division will be required through the building permit process.
10. Regarding water service, the Water and Wastewater Department indicates the following:
- Individual meters will be required for the retail space on the plan, as well as for each apartment. The meters are to be installed in a utility/meter bank room adequate to handle the required numbers of meters. Meter costs will be borne by the applicants following the determination of meter size by the Department through the construction improvement plan process.
 - The four existing water services on the 12" main will be required to be disconnected and the curb stop valves removed in front of the existing buildings on the site.
 - Fire and domestic service must have separate feeds for valves for each, outside the proposed building. These facilities should be shown on the construction improvement plan.

11. The Water and Wastewater indicates the following regarding sanitary sewer service:

- The applicant will be required to cut and cap the four existing sewer laterals at the rear of curb.
- An STP fee will be required at the time of the issuance of the first Certificate of Occupancy for the facility.

12. The Parks Department indicates the following:

- In light of the large Sycamore trees at the site on E. Delaware Avenue and in compliance with the recently amended landscape treatment section of the Zoning Code, these “valued trees,” will need to be replaced at other off-site locations to be determined by the Parks Department.
- Flush mounted tree grates for to-be-installed trees will be required; these should be installed in consultation with the Department.

Recommendation

Following the Planning Commission’s review of the Planning and Development Department’s report on Campus Edge and your consideration of the applicant’s presentation and public comment, we suggest the Commission consider the following options in terms of approvals and a recommendation to City Council:

- If the Commission determines the following regarding the Campus Edge plan: that it is compatible with recently approved downtown projects in terms of its design, scale and intensity of development; that it meets the criteria in the Zoning Code for site plan approval; that it will not have a negative impact on adjoining and nearby properties; that it conforms to the guidelines of Comprehensive Development Plan IV, and, with the proposed onsite and potential adjacent surface parking land dedication that it will make a positive contribution to downtown parking, **the Planning and Development Department suggests that the Planning Commission take the following actions:**
 - A. Recommend that the Campus Edge property be rezoned from BL (business limited) to BB (central business district), as shown on the attached Planning and Development Department Exhibit A, dated March 1, 2011;**
 - B. Recommend that City Council approve the Campus Edge major subdivision plan as shown on the McBride & Ziegler, Inc. plan dated December 20, 2010, with site plan approval, and with a special use permit for upper floor apartments, with the Subdivision Advisory Committee recommended conditions, and with the further condition that the total number of residential units proposed be approved conditional upon the submittal to the City within six months of the date of Council approval of Campus Edge, of a plan for the Trader’s Alley property that calls for the land dedication of all or a significant portion of the surface parking at that site to the City for public parking.**

- C. Approve the required 42 space Campus Edge parking waiver with the condition that, if the adjoining Trader's Alley LLC property is approved for redevelopment including dedication to the City of its existing surface level parking, all Campus Edge surface level parking would be also dedicated to the City. If this land is dedicated to the City, the required parking waiver fee shall be refunded to the applicant; [this fee would normally be required at first Certificate of Occupancy].
- If the Planning Commission believes the above comments reflect its views concerning the project except with the proviso that the proposed number of units should be reduced to the 36 units per acre limitation above [the highest number of units per acre of recently approved projects], then the Commission may choose to recommend approval with the reduction of the number of units to meet this density to a maximum of 31 and/or some portion of the proposed units be limited each to a maximum of two tenants. In this case, the above recommendation with the additional condition regarding the reduction in density would then be approved by the Commission without the conditions concerning the Trader's Alley redevelopment and associated land dedications.

Tax Parcels #18-020.00-191,
192, 193 & 195
Prepared By & Return To:
City of Newark
City Secretary's Office
220 Elkton Road
Newark, DE 19711

AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2011, by and between **CAMPUS EDGE, LLC**, a Delaware corporation, party of the first part hereto, hereinafter referred to as the "Developer," and the **CITY OF NEWARK**, a municipal corporation of the State of Delaware, party of the second part hereto, hereinafter referred to as the "City";

WITNESSETH:

THAT WHEREAS, the Developer is requesting approval of a major subdivision for the redevelopment of the .85 acre properties located at 206, 208, 220 and 224 East Delaware Avenue, in order to demolish the existing buildings on the Site and to construct two three-story mixed use buildings with 4,480 sq. ft. of first floor commercial space and 14 apartments on the second and third floors in one building; and first floor parking and 10 second and third floor apartments in a second building for a total of 24 apartments on the Site, to be known as Campus Edge; and

WHEREAS, the proposed development shall comply with BB zoning classification; and

WHEREAS, the City has approved the recordation and development of said Site for the purpose stated above, as shown on a plot plan prepared by McBride & Ziegler, Inc, dated December 20, 2010, and as subsequently revised, attached hereto and made a part hereof by reference, subject to the conditions contained herein;

NOW, THEREFORE, in exchange for the mutual promises contained herein and for other good and valuable consideration which is hereby deemed sufficient and is acknowledged by the parties hereto, the parties mutually agree as follows:

1) The Developer agrees to abide by the terms and conditions, if any, in Newark City Council Resolution No. 11-____, dated _____, which resolution is attached hereto and made a part hereof by reference.

2) The Developer agrees to abide by the terms and conditions of the City of Newark Subdivision and Development Regulations and the Newark Zoning Code as relevant provisions therein relate to BB zoning classification and to the aforesaid development.

3) The Developer agrees to comply with all applicable codes of the City of Newark and shall contact the Public Works, Electric, Code Enforcement, and Water/Waste

Water Departments as part of the building permit application and review process to ensure compliance with such requirements.

4) The Developer agrees that if there are any recorded or unrecorded existing easements or rights-of-way on, under, or over the Site and which benefit the City in any fashion, such easements and rights-of-way shall not be modified or changed in any way as a result of this Agreement or the subdivision of lands covered by this Agreement without the written consent of the City or other beneficial owners of such easements

5) The Developer agrees that the architectural design of the proposed buildings on the Site shall be consistent on all building elevations visible from public rights-of-way. In addition, refuse bins, storage areas, mechanical and all utility hardware shall be screened from public view with materials harmonious with the architectural design of the proposed buildings or shall be located so as not to be visible from adjoining properties or public rights-of-way.

The Developer also agrees to design the exterior lighting as an integral architectural element of the proposed architectural design. Parking area lighting shall be designed to limit impact on adjoining and nearby properties.

6) In light of the City's ongoing efforts to encourage owner-occupancy, the City and Developer agree that the proposed residential units may be converted in the future to condominium ownership. Submittal of the appropriate State of Delaware-required condominium documents to the City Solicitor for review and approval shall be required for this development prior to any conversion of any unit or units from rental to condominium status.

7) The Developer agrees, through the Construction Improvements Plan process, to submit to the Public Works Department for review and approval final stormwater management and related public works improvements.

8) The Developer shall be responsible for all refuse collection on the Site.

9) The Developer shall provide the City, prior to construction improvement plan approval, a "Letter of No Objection" from DelDOT for the proposed entrance and stormwater piping in DelDOT's right-of-way.

10) As to electric service to the Site, the Developer agrees to the following:

- a. No trees over 18' in height at maturity may be planted under aerial wires located along East Delaware Avenue and building clearance from the utility poles to the front of the building shall be reviewed with the Electric Department prior to the issuance of building permits for the Site.
- b. To pay all costs associated with the relocation of a Verizon owned pole located at East Delaware Avenue.
- c. To pay \$350 per meter for commercial radio read meters and to pay \$110 per meter for each apartment.
- d. To pay \$12,000 toward the cost of a padmounted transformer.

11) The Developer agrees that in exchange for a six-space parking waiver, they will pay the City \$4,375 prior to the issuance of the first certificate of occupancy. (New language)

12) The Developer shall, through the Construction Improvements Plan process, be required to install individual water meters for the retail space as well as for each apartment. Said meters to be installed in a utility/meter bank room adequate to handle the required number of meters. Meter costs will be borne by the Developer following the determination of meter size by the Water and Wastewater Department through the construction improvement plan process.

13) The Developer shall be required to disconnect the four existing water services on the 12" main and the curb stop valves shall be removed in front of the existing buildings on the Site.

In addition, the Developer agrees, through the Construction Improvements Plan process, to show fire and domestic service with separate feeds for valves for each facility, outside the proposed building.

The Developer further agrees to cut and cap the four existing sewer laterals at the rear of the curb.

14) The Developer agrees to pay the required STP fee incurred on the Site prior to the issuance of the first Certificate of Occupancy.

15) The Developer agrees, through the Construction Improvements Plan process, to install flush mounted tree grates in consultation with the Parks and Recreation Department.

16) This Agreement may be modified, but only with the written approval of the Newark City Council, the Developer, and/or his successors in interest.

17) The provisions of this Agreement shall be severable. If any provision of this Agreement is found by any court to be void or unenforceable, the remaining provisions hereof shall remain valid and in full force and effect.

18) This Agreement shall be interpreted pursuant to the Laws of the State of Delaware and shall be binding upon all heirs, successors in interest, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement on the day and year aforesaid.

WITNESS:

CAMPUS EDGE, LLC

By: _____

ATTEST:

CITY OF NEWARK

City Secretary

City Manager

STATE OF DELAWARE

SS.

NEW CASTLE COUNTY

BE IT REMEMBERED, that on this ____ day of _____, in the year of Our Lord, two thousand and eleven, personally came before me, a Notary Public for the State and County aforesaid, _____, representing **CAMPUS EDGE, LLC**, Delaware corporation, party to this Indenture, known to me personally to be such, and does acknowledge this Indenture to be his act and deed and the act and deed of said corporation.

GIVEN under my hand and seal of office, the day and year aforesaid.

Notary Public

STATE OF DELAWARE

SS.

NEW CASTLE COUNTY

BE IT REMEMBERED, that on this ____ day of _____, in the year of Our Lord, two thousand and eleven personally came before me, the subscriber, a Notary Public for the State and County aforesaid, **KYLE R. SONNENBERG**, City Manager of the City of Newark, Delaware, party of the second part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of the Council of Newark; that the signature of the City Manager is in his own proper handwriting; that the seal affixed is the Seal of the City of Newark; and, that his act of signing, sealing, executing, acknowledging, and delivering said Indenture was duly authorized by order of said Council of the City of Newark.

GIVEN under my hand and seal of office, the day and year aforesaid.

Notary Public

**CITY OF NEWARK
DELAWARE**

RESOLUTION NO. 11-__

**MAJOR SUBDIVISION OF .85 ACRE PARCEL LOCATED
AT 206, 208, 220 AND 224 EAST DELAWARE AVENUE
TO BE KNOWN AS CAMPUS EDGE**

WHEREAS, the Planning Commission, pursuant to Subdivision and Development Regulations adopted September 11, 1978, with various revisions to date, has transmitted to Council a report dated February 18 2011, regarding an application from Campus Edge LLC (hereinafter the Developer) in order to demolish the existing buildings on the Site and to construct two three-story mixed use buildings with 4,480 sq. ft. of first floor commercial space and 14 apartments on the second and third floors in one building; and first floor parking and 10 second and third floor apartments in a second building for a total of 24 apartments on the Site, to be known as Campus Edge, as shown on a plot plan prepared by McBride & Ziegler, Inc., dated December 20, 2010, and as subsequently revised, attached hereto and made a part hereof, subject to certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newark, that final approval of the above-mentioned plot plan showing the proposed subdivision, complying with BB zoning classification, be and the same is hereby granted upon the terms and conditions of the Subdivision and Development Regulations of the City of Newark.

BE IT FURTHER RESOLVED that said approval is granted upon the following conditions:

a) The Developer agrees that the architectural design of the proposed building on the Site shall be consistent on all building elevations visible from public rights-of-way. In addition, refuse bins, storage areas, mechanical and all utility hardware shall be screened from public view with materials harmonious with the architectural design of the proposed building or shall be located so as not to be visible from adjoining properties or public rights-of-way.

The Developer also agrees to design the exterior lighting as an integral architectural element of the proposed architectural design. Parking area lighting shall be designed to limit impact on adjoining and nearby properties.

b) In light of the City's ongoing efforts to encourage owner-occupancy, the City and Developer agree that the proposed residential units may be converted in the future to condominium ownership. Submittal of the appropriate State of Delaware-required condominium documents to the City Solicitor for review and approval shall be

required for this development prior to any conversion of any unit or units from rental to condominium status.

c) The Developer agrees, through the Construction Improvements Plan process, to submit to the Public Works Department for review and approval final stormwater management and related public works improvements.

d) The Developer shall be responsible for all refuse collection on the Site.

e) The Developer shall provide the City, prior to construction improvement plan approval, a "Letter of No Objection" from DelDOT for the proposed entrance and stormwater piping in DelDOT's right-of-way.

f) As to electric service to the Site, the Developer agrees to the following:

a. No trees over 18' in height at maturity may be planted under aerial wires located along East Delaware Avenue and building clearance from the utility poles to the front of the building shall be reviewed with the Electric Department prior to the issuance of building permits for the Site.

b. To pay all costs associated with the relocation of a Verizon owned pole located at East Delaware Avenue.

c. To pay \$350 per meter for commercial radio read meters and to pay \$110 per meter for each apartment.

d. To pay \$12,000 toward the cost of a padmounted transformer.

g) The Developer agrees that in exchange for a six-space parking waiver, they will pay the City \$4,375 prior to the issuance of the first certificate of occupancy. (New language)

h) The Developer shall, through the Construction Improvements Plan process, be required to install individual water meters for the retail space as well as for each apartment. Said meters to be installed in a utility/meter bank room adequate to handle the required number of meters. Meter costs will be borne by the Developer following the determination of meter size by the Water and Wastewater Department through the construction improvement plan process.

i) The Developer shall be required to disconnect the four existing water services on the 12" main and the curb stop valves shall be removed in front of the existing buildings on the Site.

In addition, the Developer agrees, through the Construction Improvements Plan process, to show fire and domestic service with separate feeds for valves for each facility, outside the proposed building.

The Developer further agrees to cut and cap the four existing sewer laterals at the rear of the curb.

j) The Developer agrees to pay the required STP fee incurred on the Site prior to the issuance of the first Certificate of Occupancy.

k) The Developer agrees, through the Construction Improvements Plan process, to install flush mounted tree grates in consultation with the Parks and Recreation Department.

RESOLVED at a Regularly Scheduled Meeting on _____, 2011.

VOTE: _____to_____.

Mayor

Attest:

City Secretary